

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21**

SOLO CUP COMPANY<sup>1</sup>

Employer

and

Case No. 21-RD-2782

MICHAEL F. BRUCE

Petitioner

and

UNITED FOOD AND COMMERCIAL  
WORKERS UNION LOCAL 135, AFFILIATED  
WITH THE UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION<sup>2</sup>

Union

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

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<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The Union's name appears as amended at the hearing.

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.

2. The parties stipulated that Solo Cup Company, herein the Employer, a Delaware corporation, with facilities located at 1160 Vernon Way, El Cajon, California and 1250 Marshall Avenue, El Cajon, California, the only facilities involved herein, is engaged in the manufacturing and distribution of paper products. During the past 12-months, a representative period, the Employer has shipped products valued in excess of \$50,000 from its El Cajon, California facilities directly to firms outside the State of California. Based on the stipulation of the parties and the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved herein claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. The parties stipulated, and I find, that the following unit is appropriate for the purposes of collective bargaining:

All full-time and regular part-time production (including adjustors, bag machine operators, packers, production clerk/plant clerical) and maintenance employees, material handlers, warehouse employees, shipping and receiving employees, shipping clerks and truck drivers employed by the Employer at its facilities located at 1160 Vernon Way, El Cajon, California, and 1250 Marshall Avenue, El Cajon, California; excluding all other employees, office clerical employees, shift supervisors, confidential employees, professional employees, and supervisors as defined in the Act.

No issues were presented at the hearing.

There are approximately 180 employees in the unit found appropriate.

### **DIRECTION OF ELECTION<sup>3</sup>**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off, are eligible to vote. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an

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<sup>3</sup> In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that I will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

economic strike which commenced less than 12 months before the election date, employees engaged in such a strike, who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote.

Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced are ineligible to vote. Those eligible shall vote whether they desire to be represented for collective bargaining purposes by **United Food and Commercial Workers Union Local 135, Affiliated with the United Food and Commercial Workers International Union.**

### **LIST OF VOTERS**

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of an alphabetized election eligibility list, containing the full names and addresses of all the eligible voters shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. North Macon Health Care Facility, 315 NLRB 359 (1994).

In order to be timely filed, such list must be received in Region 21, 888 South Figueroa Street, 9<sup>th</sup> Floor, Los Angeles, California 90017-5449, **on or before** August 22, 2005. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. . Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (213) 894-2778. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

### **NOTICE OF POSTING OBLIGATIONS**

According to Board Rules and Regulations, Section 103.21, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

## **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. The Board in Washington must receive this request by p.m., EST, on August 29, 2005. This request may **not** be filed by facsimile.<sup>4</sup>

**DATED** at Los Angeles, California this 15<sup>th</sup> day of August, 2005.

“/s/ [Victoria E. Aguayo].”  
Victoria E. Aguayo, Regional Director  
National Labor Relations Board  
Region 21

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<sup>4</sup> See <http://gpea.NLRB.gov> for e-filing requirements.